

REMARKS

In response to the aforementioned Office Letter, the applicant respectfully traverses the restriction requirement on the grounds that it is not founded, either in law or in fact. In this case, the U.S. Patent and Trademark Office attempted to restrict the application between Claims 1-35, allegedly drawn to an insulation jacket, and Claims 36-38, allegedly drawn to a fastener. The Examiner took the position that the claims drawn to the fastener could be used in other devices, as for example, for fastening clothes together or fastening other objects together and, therefore, concluded that the fasteners are not necessarily needed for fastening the insulation jackets. Reconsideration of this position is respectfully urged.

It is noted that these fasteners, as claimed herein, were especially designed for use with the jackets in the instant application. There is some serious issue as to whether or not these fasteners would be effective for fastening clothing articles. Indeed, since the clothing articles probably would not have the necessary rigidity, it is highly doubtful that these fasteners would work with almost any type of soft fabric. Consequently, it is believed that the position on the part of the Examiner regarding any restriction between two alleged inventions is without foundation.

Admittedly, other fasteners could be used for fastening the

edges of the jackets together, as for example, screws and the like. However, the fasteners in the instant application were especially designed for use with injection molded plastics having some degree of structural integrity. Inasmuch as these fasteners would not work with clothing fabrics, and for that matter, a wide variety of other articles, it is believed that the basis for arguing there are two separate inventions is without foundation. Therefore, the applicant respectfully urges reconsideration of the restriction between the two alleged inventions.

10 The applicant has further submitted a new Claim 39, which effectively links both the jacket and the fastener. In essence, Claim 39 includes those details of the jacket, as well as the details of the fastener. Therefore, a search with regard to either the jacket or the fastener would necessarily involve the searching of the other non-elected invention. Therefore, it is again believed that the restriction requirement between at least the two alleged inventions would be duplicative, and reconsideration is, again, further solicited.

20 The Examiner also contended that the application contained claims directed to species of Figures 1, 19, 22, 29, 35, and 39. At the outset, and with regard to the species restriction, it is questionable as to whether the species of Claim 19 would be distinct from the species of Claim 17. The same holds true of the species of Figures 2, 9, 4, 3 and 5, in that they are really the

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same species. Reconsideration of this restriction, as formulated, is respectfully urged.

It can be argued that the species of Figures 22, 29, 35 and 39 could constitute separate species, apart from those illustrated in Figures 1 and 19. However, it is believed that the Examiner may have overlooked the fact that the species of Figure 19 and the species of Figure 1, is essentially one and the same. It is to be noted that the species of Figures 1, and those remaining figures of the first sheet of drawings, illustrate the J-trap cover forming part of the P-trap cover assembly of the invention. The species of Figure 19 merely illustrates that J-trap cover, along with the waste arm cover, of Figures 12-18.

In essence, there are not two covers because the two covers of Figures 1 and 19 are always used together. In fact, it would be absurd to use the J-trap cover without the waste arm cover, or vice versa. The only reason there are two individual pieces is because of the facilitation in manufacture, and the ease of installment around the pipe. Consequently, it is respectfully urged that there are not two individual species between Figures 1 and 19.

The same issue holds true with regard to the species of Figures 29 and 22. The water supply cover 130 of Figure 22 would not be used individually without the valve cover 150 of Figure 29. The same also holds true in reverse. In other words, these two components are also separated for purposes of manufacture and ease

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of installation. In actuality, they constitute a single unit. Consequently, it is urged that there are not two species between Figures 22 and 29, but rather, a single species.

In an effort to be responsive, the applicant does not know how it can segregate claims drawn to the J-trap cover, as opposed to the waste arm cover. In effect, these two portions are always used together. Claim 22, for example, is drawn to a combination of both of the jackets, such as, for example, the J-trap jacket and the waste arm jacket. However, Claim 22 applies equally as well to the hot water supply line cover, in combination with the valve cover.

During the prosecution of this application, it is noteworthy that the applicant may very well add limitations to claims covering both jackets, without positively reciting each jacket individually. That is clearly a possibility during the prosecution of this application. Consequently, it is respectfully urged that the restriction requirement set forth by the Examiner is not really practical, and would not appear to accomplish anything at all. For example, the applicant could easily take Claim 22 and add the limitations of Claim 1 to Claim 22 and there would, in effect, be a combination of the two claims. The same holds true with regard to the alleged species of Claims 29 and 35. In effect, the species of Figure 35 is nothing more than the hot water supply pipe cover 130, being connected to the valve cover 150. In substance, one would not use the valve cover without the hot water supply line

130.

It is noteworthy that the jackets described in the instant application are all designed to cover the undersink piping of a conventional sink. Moreover, the Americans With Disabilities Act  
5 literally requires covering of all pipes which could contain any hot water, in order to protect the unambulatory, as for example, those in a wheelchair. Consequently, it would be absurd to use a valve cover without the jackets for covering the J-trap and the waste arm, and vice versa.

10 If there are, indeed, any individual species of the invention, it is respectfully urged that the species of Figures 1-21 constitutes a first specie, since the waste arm could not be used without the J-trap, and the species of Figures 22-39 and 46-48 constitute a second species, and, perhaps, the species of Figures  
15 39-44 constitute a third species. It is urged that little would be accomplished by breaking the application into the various groupings alleged by the Examiner.

The applicant would also invite attention to, for example, U.S. Patent No. 5,303,730 to Trueb et al., U.S. Patent No.  
20 5,915,412 to Helmsderfer, U.S. Patent No. 5,901,739 to Helmsderfer, and U.S. Patent No. 5,163,469 to Trueb et al., which show similar jacket covers. It is to be noted that in all cases, a waste arm is used in combination with the J-trap cover. Helmsderfer Patent No. 5,678,598 shows the use of the valve cover and hot water supply

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line cover, in combination with the other components. Consequently, it is believed that if there is any restriction at all, it should be that which the applicant has proposed herein.

The included chart, as set forth below, shows the claims which are generic and those claims directed to the species of the individual figures set forth by the Examiner. In this respect, it is to be noted that with regard to the species of Figures 1 and 29, the claims are generic and these two species include all of the elected claims. However, the species of Figure 29 does not include Claims 31-35 drawn to the use of the fins or ribs.

With regard to the following chart set forth herein, it is to be observed that each of the species claims, including Claims 22-27 and 28-30, are actually generic in that both of the cover pieces include the same structure recited in those generic claims. Thus, the applicant has broken out Claims 22-27 and 28-30, inasmuch as they are drawn to the two components of the system. However, these claims include at least the one cover piece identified in the species of Figure 1, and hence, they are essentially generic in nature.

| <u>Figure</u> | <u>Generic Claim</u>   | <u>Specie Claim</u> |
|---------------|--|---------------------|
| 1             | 1, 2, 3, 4, 5, 5, 7, 8, 9-12, 13-16, 17-21, 31-35, 36-38, 39 |                     |
| 19            | 1, 2, 3, 4, 5, 5, 7, 8, 9-12, 13-16, 17-21, 31-35, 36-38, 39 | 22-27, 28-30        |

| <u>Figure</u> | <u>Generic Claim</u>  | <u>Specie Claim</u> |
|---------------|---|---------------------|
| 22            | 1, 2, 3, 4, 5, 5, 7,<br>8, 9-12, 13-16, 17-<br>21, 31-35, 36-38, 39 |                     |
| 29            | 1, 2, 3, 4, 5, 5, 7,<br>8, 9-12, 13-16, 17-<br>21, 36-38, 39        |                     |
| 35            | 1, 2, 3, 4, 5, 5, 7,<br>8, 9-12, 13-16, 17-<br>21, 36-38, 39        | 22-27, 28-30        |
| 39            | 1, 2, 3, 4, 5, 5, 7,<br>8, 9-12, 13-16, 17-<br>21, 36-38, 39        |                     |

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In an effort to be responsive, the applicant respectfully elects to prosecute those claims of the species of Figure 19, which includes the generic Claims 1-8, 9-12, 13-16, 17-21, 31-35, 36-38 and 39, as well as the species claims 22-27 and 28-30. It is to be noted that the applicant is clearly entitled to prosecute the generic claims, even though they read on at least one of the cover pieces. In fact, these generic claims read on both of the cover pieces individually.

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In view of the fact that adherence to the restriction requirement would not appear to serve any real purpose in this application, the applicant respectfully urges the U.S. Patent and Trademark Office to adopt that restriction requirement proposed by the applicant if there is any need for a restriction requirement, at all. However, the applicant does wish to emphasize that in

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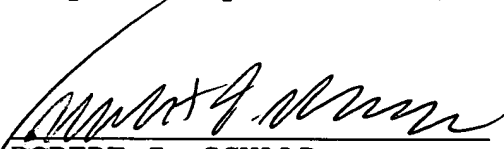
numerous prior art patents relating to undersink protective covers,  
there has not been any restriction requirement whatsoever.  
Consequently, it is urged that the U.S. Patent and Trademark  
Office, in this application, is out of step with the position taken  
in numerous other patents covering like subject matter.

The applicant will very shortly submit to the U.S. Patent and  
Trademark Office an Information Disclosure Statement, listing all  
relevant patents known to the applicant. It will be noteworthy  
that in each of these patents, the applicants were allowed to  
prosecute wide varieties of claims.

In view of the foregoing, reconsideration of the restriction  
requirement is respectfully solicited.

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Respectfully submitted,

  
ROBERT J. SCHAAP  
Registration No. 20,577  
Attorney for Applicant  
(818) 346-6555

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